

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'F' : NEW DELHI)
BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER
ITA No. 432/Del/2022, A.Y. 2011-12

Pradhan Singh H. No. 111, Sector-3, Rohtak PAN : ABAPT4618C (APPELLANT)	Vs.	Income Tax Officer, Ward 3, Rohtak (RESPONDENT)
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Assessee by	Sh. A. K. Jain, Adv.
Revenue by	Sh. Akhilesh Gupta, Sr. DR

Date of hearing:	12.04.2023
Date of Pronouncement:	20.04.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been preferred by the Assessee against the order dated 11.12.2021 of CIT(A), National Faceless Appeal Centre (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') in Order No. ITBA/NFAC/S/250/2021-22/1037708218(1) arising out of an appeal before it against the order dated 30.11.2018 passed u/s 144/147 of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ITO, Ward-3, Rohtak (hereinafter referred as the Ld. AO).

2. Heard and perused the record. Assessee is in appeal raising following grounds :-

“1. The order of the Ld. Commissioner of Income Tax (Appeals) of National faceless appeal Centre (NFAC) is against facts and is bad in law.

2. The Ld. Commissioner of Income Tax (Appeals) has erred in confirming the order of Assessing Officer of imposing penalty of Rs. 10,000/- u/s 271(1)(b) of the Income Tax Act.

3. The appellant craves leave to add, amend, alter or forgo any ground of appeal at the time of hearing.”

3. At the outset, it comes up that there was a delay of 60 days in filing the appeal for which the assessee has given an explanation that the order of Id. First Appellate Authority was received by him through mail however as he was not having computer and e-mail facility he did not access to it while Ld. AR has not informed him in any other way. The reasons cited are sufficient and justify condonation of the delay. Accordingly, the delay is condoned.

4. The penalty u/s 271(1)(b) of the Act has been levied by the Ld. AO on the basis of non-appearance of the assessee in compliance of notice u/s 142(1) of the Act issued on 19.09.2018 and as the assessment was completed u/s 144/147 of the Act. The assessee is an individual and claims that he was not served the notice at his present address which is house no. 1111, Sector-3, Rohtak and that the address of his official residence at C-784 KRIBHCO TOWNSHIP, Kribconagar, Choryashi, Surat, Gujarat, where he was sought to be served, was no longer his address.

5. The material on record filed by the assessee shows that in the reasons for reopening address of Rohtak was mentioned while in the notice issued u/s 148 and the assessment order dated 30.11.2018 and the penalty order dated 22.05.2019, address of Surat is mentioned. The Bench is convinced that the notice were not duly served upon the assessee at his present address at Rohtak and further he had no information, otherwise, to appear on 28.09.2018 for default of which notice u/s 271(1)(b) of the Act was issued. The ground raised

are sustained. The **appeal of assessee is allowed and** the impugned penalty order is set aside.

Order pronounced in the open court on 20th April, 2023.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Date:- 20.04.2023

Binita, SR.P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI